

# EXHIBIT A

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11 **UNITED STATES DISTRICT COURT**  
12 **EASTERN DISTRICT OF CALIFORNIA**

13 MARIA SOSA, L.S. by and through  
14 guardian *ad litem* MARIA SOSA,  
15 M.S. by and through guardian *ad  
litem* JENNIFER LOPEZ,  
individually and as successors-in-  
16 interest to Maximiliano Sosa,

17 Plaintiffs,

18 v.

19 CITY OF FRESNO, JOHN AYERS,  
20 BRANDON CROCKETT,  
21 JONATHAN ABRAHAM, and  
ANTHONY AGUILAR and DOES  
22 1-5,

23 Defendants.

24 Case No.: 1:23-cv-01575-JLT-SAB  
~~1:24-cv-01039-EPG~~

25 **FIRST SECOND AMENDED  
COMPLAINT**

26 Federal Law Claims

1. Fourth Amendment, Excessive Force
- ~~2. Fourth Amendment, Denial of Medical Care (42 U.S.C. § 1983)~~
- 3.2. Fourteenth Amendment, Interference with Familial Relationship (42 U.S.C. § 1983)
- 4.3. Municipal Liability, Unconstitutional Custom or Policy (42 U.S.C. § 1983)
- 5.4. Municipal Liability, Failure to Train (42 U.S.C. § 1983)
- 6.5. Municipal Liability, Ratification (42 U.S.C. § 1983)
- 7.6. Americans with Disabilities Act (42 U.S.C. § 12132)

27 State Law Claims

- 8.7. Battery
- 9.8. Negligence
- 10.9. Negligent Infliction of Emotional Distress

44.10. Violation of Cal. Civil Code  
§ 52.

## **DEMAND FOR JURY TRIAL**

**FIRST SECOND AMENDED COMPLAINT FOR DAMAGES**

COME NOW, Plaintiffs MARIA SOSA, L.S., and M.S. by and through their guardian *ad litem*, JENNIFER LOPEZ, for their Complaint for Damages against Defendants CITY OF FRESNO, JOHN AYERS, BRANDON CROCKETT, JONATHAN ABRAHAM, and ANTHONY AGUILAR ~~and DOES 1-5~~  
("DEFENDANT OFFICERS") and hereby allege as follows:

## INTRODUCTION

1. This civil rights and state tort action arises from the unjustified use of deadly force by Fresno Police Department officers against Maximiliano Sosa, a 33-year-old diesel mechanic and father of two. On the night of November 4, 2023, the officers recklessly escalated a manageable situation into a deadly confrontation, resulting in a life cut short, two young children robbed of their father's love and guidance, and a widow permanently scarred by the loss of her partner. Plaintiffs seek compensatory damages from Defendants for violating their rights under the United States Constitution and for their violations of state law. Plaintiffs seek punitive damages from the officers.

## **JURISDICTION AND VENUE**

2. The Court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §§1331 and 1333(a)(3)–(4) because Plaintiffs assert claims arising

under the laws of the United States including 42 U.S.C. §1983 and the Fourth and Fourteenth Amendments of the United States Constitution.

3       3. This Court has supplemental jurisdiction over Plaintiffs' claims  
4 arising under state law pursuant to 28 U.S.C. §1337(a) because those claims  
5 are so related to the federal claims that they form part of the same case or  
6 controversy under Article III of the United States Constitution.

7       4.     Venue in this judicial district is proper pursuant to 28 U.S.C.  
8 §1391(b) because all incidents, events, and occurrences giving rise to this  
9 action occurred within this district.

10       5. On February 12, 2024, Plaintiffs served their comprehensive and  
11 timely claim for damages on their own behalf and on behalf of Mr. Sosa with  
12 the CITY OF FRESNO pursuant to applicable sections of the California  
13 Government Code.

14       6. On March 8, 2024, Plaintiffs served their amended claim for  
15 damages on their own behalf and on behalf of Mr. Sosa with the CITY OF  
16 FRESNO pursuant to applicable sections of the California Government Code

17       7. On March 19, 2024, Defendant CITY OF FRESNO served its  
18 letters of rejection of Plaintiffs' claims.

## **PARTIES**

20       8.     Maximiliano Sosa, a 33-year-old man, was killed on November 4,  
21 2023 by Defendant CITY OF FRESNO police officers. At all relevant times,  
22 Mr. Sosa was an individual residing in Fresno.

23       9. Plaintiff MARIA SOSA is an individual who was residing in  
24 Fresno at the time of the incident. MARIA SOSA is the wife of Mr. Sosa; she  
25 sues under federal and state law in her individual capacity and as successor-  
26 in-interest to Mr. Sosa. Plaintiff MARIA SOSA is Mr. Sosa's successor-in-  
27 interest pursuant to California Code of Civil Procedure §§377.30 and 377.60.

1       10. Plaintiff L.S., a child of Mr. Sosa, is an individual and was  
2 residing in Fresno at the time of the incident. Plaintiff L.S. sues under federal  
3 and state law in his individual capacity and as successor-in-interest to Mr.  
4 Sosa. Plaintiff L.S. is Mr. Sosa's successor-in-interest pursuant to California  
5 Code of Civil Procedure §§377.30 and 377.60.

6       11. Plaintiff M.S., a child of Mr. Sosa, is an individual and was  
7 residing in Fresno at the time of the incident. Plaintiff M.S. sues under  
8 federal and state law in her individual capacity and as successor-in-interest to  
9 Mr. Sosa. Plaintiff M.S. is Mr. Sosa's successor-in-interest pursuant to  
10 California Code of Civil Procedure §§377.30 and 377.60.

11       12. Defendant CITY OF FRESNO ("CITY") is a political subdivision  
12 of the State of California that is within this judicial district. Defendant CITY  
13 is responsible for the actions, omissions, policies, procedures, practices, and  
14 customs of its various agents and agencies, including the Fresno Police  
15 Department ("FPD") and its agents and employees. At all relevant times,  
16 Defendant CITY was responsible for assuring those actions, omissions,  
17 policies, procedures, practices, and customs of the Defendant CITY, FPD,  
18 and its employees and agents complied with the laws of the United States and  
19 the State of California.

20       13. JOHN AYERS, BRANDON CROCKETT, JONATHAN  
21 ABRAHAM, and ANTHONY AGUILAR ("DEFENDANT  
22 OFFICERS")~~DOES 1-5, ("DEFENDANT OFFICERS")~~ are police officers  
23 with the FPD. At all relevant times, DEFENDANT OFFICERS were acting  
24 under the color of law within the course and scope of their duties as officers  
25 working for the FPD. At all relevant times, DEFENDANT OFFICERS acted  
26 with complete authority and ratification of their principal, Defendant CITY.

27       14. ~~Plaintiffs are ignorant of the true names and capacities of~~  
28 ~~DEFENDANT OFFICERS and therefore sue them by such fictitious names.~~

1 ~~Plaintiffs will amend the complaint to allege the true names and capacities of~~  
 2 ~~those Defendants when their names have been ascertained. Plaintiffs are~~  
 3 ~~informed and believe, and on that basis allege, that DEFENDANT~~  
 4 ~~OFFICERS are responsible in some manner for the occurrences alleged~~  
 5 ~~herein and proximately caused Plaintiffs' damages.~~

6 15.14. According to information and belief, DEFENDANT  
 7 OFFICERS were at all relevant times residents of Fresno.

8 16.15. ~~Defendants~~ DEFENDANT OFFICERS acted at all times  
 9 mentioned herein as the actual and/or ostensible agents, employees, servants,  
 10 or representatives of ~~each other~~ Defendant CITY and, in doing the activities  
 11 alleged herein, acted within the scope of their authority as agents and  
 12 employees, and with the permission and consent of ~~each other~~ Defendant  
 13 CITY.

14 17.16. ~~Plaintiffs are informed and believe, and on that basis allege,~~  
 15 ~~that a~~ At all times mentioned herein, ~~all individual Defendants, including~~  
 16 DEFENDANT OFFICERS, acted under the color of law, statute, ordinance,  
 17 regulations, customs and usages of the State of California and the Defendant  
 18 CITY.

19 18.17. Pursuant to Cal. Govt. Code §815.2(a), Defendant CITY is  
 20 vicariously liable for the nonfeasance and malfeasance of the individual  
 21 DEFENDANT OFFICERS as alleged by Plaintiffs' state law claims. ("A  
 22 public entity is liable for injury proximately caused by an act or omission of  
 23 an employee of the public entity within the scope of his employment if the act  
 24 or omission would, apart from this section, have given rise to a cause of  
 25 action against that employee or his personal representative."). DEFENDANT  
 26 OFFICERS are liable for their nonfeasance and malfeasance pursuant to Cal.  
 27 Civ. Code §820(a). Defendant CITY is also liable pursuant to Cal. Govt.  
 28 Code §815.6.

1       19.18. DEFENDANT OFFICERS are sued individually. Defendant  
 2 CITY is being sued for direct liability under *Monell* and vicarious liability  
 3 under Plaintiffs' state law claims.

4                   **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

5       20.19. During the early hours of November 4, 2023, officers  
 6 officers from the City of Fresno ("CITY") Police Department ("FPD")  
 7 responded to the residence of MARIA SOSA.

8       21.20. Upon arrival, Defendant Officers~~they~~ spoke with MARIA  
 9 SOSA, where whoshe informed them that Mr. Sosa was having a mental  
 10 health crisis.

11      22.21. Mr. Sosa was 33 years old at the time.

12      23.22. Officers~~Defendant Officers~~ entered the residence and asked  
 13 MARIA SOSA to call Mr. Sosa to return to the residence, which she did.

14      24.23. When Mr. Sosa arrived at the residence, ~~two~~Defendants  
 15 Officers, DOE 1 and DOE 2YERS, ABRAHAM, and CROCKETT, aimed  
 16 lethal weapons at Mr. Sesahim. Defendant AGUILAR drew his Electronic  
 17 Control Device ("ECD").

18      25.24. Despite knowing that Mr. Sosa was suffering from a mental  
 19 health crisis, DEFENDANT OFFICERS~~DOE 1 and DOE 2~~ escalated the  
 20 situation by simultaneously shouting conflicting commands at him,  
 21 contributing to his confusion.

22      26.25. After several minutes talking with ~~the police~~  
 23 officers~~DEFENDANT OFFICERS~~, Mr. Sosa said he wanted the officers to  
 24 shoot him outside of the residence.

25      27.26. ~~DOE 1 and DOE 2~~DEFENDANT OFFICERS ordered Mr.  
 26 Sosa to leave the residence, which unnecessarily escalated the situation,  
 27 leading to the fatal shooting.

1       28.27. Mr. Sosa complied with their order and walked out of the  
2 door of the residence at a slow pace with his hands down to his sides.

3       29.28. ~~Three more FPD Defendant Officers~~AYERS, CROCKET,  
4 and AGUILAR were waiting outside near the door,~~DOES 3-5~~.

5       30.29. Shortly after Mr. Sosa exited the residence, while he was  
6 still walking at a slow pace with his arms to his sides, ~~Defendant Officer~~  
7 ~~DOE 3~~AGUILAR discharged his taser at Mr. Sosa, striking him and causing  
8 injury.

9       31.30. When he was tased, Mr. Sosa was several yards away from  
10 the nearest person, and he was not actively resisting arrest or attempting to  
11 evade arrest by flight, nor was he posing an immediate threat to the safety of  
12 the officers or others. The use of the taser under these circumstances was  
13 excessive and unreasonable.

14       32.31. The ~~DEFENDANT OFFICERS~~AGUILAR failed to provide a  
15 verbal warning indicating that a taser would be used and did not afford Mr.  
16 Sosa an opportunity to heed any such warning.

17       33.32. Seconds after being tased, ~~DEFENDANT~~  
18 ~~OFFICERS~~CROCKETT, ABRAHAM, and AYERS discharged their firearms  
19 at Mr. Sosa, striking and fatally wounding him.

20       34.33. At the time of the shooting, Mr. Sosa did not pose an  
21 immediate threat of death or serious bodily injury to any person.

22       35.34. The DEFENDANT OFFICERS failed to provide a verbal  
23 warning indicating that deadly force would be used and did not afford Mr.  
24 Sosa an opportunity to heed any such warning.

25       36. ~~Following the shooting, the involved officers neglected to~~  
26 ~~promptly summon medical attention for, or provide medical aid to, Mr. Sosa.~~

37.35. As a direct and proximate result of the shooting ~~and the subsequent failure to provide timely medical care~~, Mr. Sosa experienced severe pain and suffering, ~~and~~ loss of life, ~~and loss of earning capacity.~~

## **FIRST CLAIM FOR RELIEF**

## **Fourth Amendment—Excessive Force (42 U.S.C. § 1983)**

(Plaintiffs against DEFENDANT OFFICERS)

38.36. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs of this Complaint with the same force and effect as if fully set forth herein.

39.37. Plaintiffs bring this claim for relief in their capacity as the successors in interest of Mr. Sosa under California Code of Civil Procedure § 377.30.

40.38. The Fourth Amendment of the United States Constitution, as applied to State Actors by the Fourteenth Amendment, provides the right of every person to be free from the use of excessive force by law enforcement officers.

41.39. DEFENDANT OFFICERS failed to employ de-escalation tactics, gave conflicting and simultaneous commands, and did not provide a verbal warning for the use of deadly force when it was feasible to do so.

42.40. DEFENDANT OFFICERS used excessive force against Mr. Sosa by tasing and fatally shooting him, despite the fact that Mr. Sosa was not an immediate threat of death or serious bodily injury. Furthermore, no verbal warning of deadly force was given, nor was Mr. Sosa given an opportunity to heed such a warning. This unjustified and unreasonable use of force violated Mr. Sosa's Fourth Amendment rights.

43.41. As a direct result of the DEFENDANT'S OFFICERS' actions, Mr. Sosa experienced severe physical and mental pain up to the time of his death.

1       44.42. DEFENDANT OFFICERS acted within the course and  
2 scope of their employment as officers for the FPD and acted under color of  
3 state law.

4       45.43. The use of force was excessive and unreasonable, given  
5 that Mr. Sosa did not pose an immediate threat of severe bodily injury or  
6 death to any person.

7       46.44. The conduct of DEFENDANT OFFICERS was willful,  
8 wanton, malicious, and done with reckless disregard for Mr. Sosa's rights and  
9 safety, warranting the imposition of exemplary and punitive damages.

10        47.45. No serious or violent crime was being responded to, and  
11 less intrusive alternatives were available.

12       48.46. Further, the Defendants knew that Mr. Sosa was suffering  
13 from a mental health crisis, but they did not take that into account when they  
14 chose to escalate the situation, shout simultaneously, and shoot him without  
15 warning.

16       49.47. DEFENDANT OFFICERS are directly liable for Mr. Sosa's  
17 injuries, either because they were integral participants in the excessive force  
18 and because they failed to intervene to prevent the use of excessive force.

19       **50.**—Plaintiffs seek survival damages, including but not limited to pre-  
20 death pain and suffering, loss of life, loss of opportunity of life, and loss of  
21 enjoyment of life, under this claim. Plaintiffs also seek attorneys' fees and  
22 costs under this claim.

## **SECOND CLAIM FOR RELIEF**

## ~~Fourth Amendment—Denial of Medical Care (42 U.S.C. § 1983)~~

~~(Plaintiffs against DEFENDANT OFFICERS)~~

26 ~~51. Plaintiffs repeat and reallege each and every allegation in the foregoing~~  
27 ~~paragraphs of this Complaint with the same force and effect as if fully set~~  
28 ~~forth herein.~~

1 ~~52. Plaintiffs bring this claim for relief in their capacity as the successors  
2 in interest of Mr. Sosa under California Code of Civil Procedure § 377.30.  
3 This claim for relief arose in Mr. Sosa's favor, and Mr. Sosa would have been  
4 the plaintiff with respect to this cause of action had he lived.~~

5 ~~53. DEFENDANT OFFICERS acted within the course and scope of their  
6 employment as officers for the Defendant CITY and FPD and acted under  
7 color of state law.~~

8 ~~54. The denial of medical care by DEFENDANT OFFICERS deprived Mr.  
9 Sosa of his right to be secure in his person against unreasonable searches and  
10 seizures guaranteed by the Fourth Amendment to the U.S. Constitution, as  
11 applied to the states by the Fourteenth Amendment, in violation of 42 U.S.C.  
12 § 1983.~~

13 ~~55. DEFENDANT OFFICERS failed to provide timely medical care to Mr.  
14 Sosa and failed to timely summon medical care for Mr. Sosa. DEFENDANT  
15 OFFICERS's delay and/or denial of medical care was a cause of Mr. Sosa's  
16 pain, suffering, and death.~~

17 ~~56. As a direct result of the aforesaid acts and omissions of DEFENDANT  
18 OFFICERS, Mr. Sosa suffered great physical and mental injury, fear, and  
19 emotional distress leading to his death and the loss of enjoyment of life.~~

20 ~~57.48. Plaintiffs seek survival damages, including but not limited  
21 to pre-death pain and suffering and loss of enjoyment of life, under this  
22 claim. Plaintiffs also seek attorneys' fees and costs under this claim.~~

### **THIRD SECOND CLAIM FOR RELIEF**

#### **Fourteenth Amendment—Denial of Familial Relationship (42 U.S.C. § 1983)**

25 (Plaintiffs against DEFENDANT OFFICERS)

26 ~~58.49. Plaintiffs repeat and reallege each and every allegation in  
27 the foregoing paragraphs of this Complaint with the same force and effect as  
28 if fully set forth herein.~~

1       59.50. MARIA SOSA had a cognizable interest under the Due  
2 Process Clause of the Fourteenth Amendment of the United States  
3 Constitution to be free from state actions that deprive her of life, liberty, or  
4 property in such a manner as to shock the conscience, including but not  
5 limited to unwarranted state interference in MARIA SOSA's familial  
6 relationship with her husband, Mr. Sosa.

7       60.51. L.S., by and through guardian ad litem JENNIFER LOPEZ,  
8 had a cognizable interest under the Due Process Clause of the Fourteenth  
9 Amendment of the United States Constitution to be free from state actions  
10 that deprive them of life, liberty, or property in such a manner as to shock the  
11 conscience, including but not limited to unwarranted state interference in  
12 L.S.'s familial relationship with their father, Mr. Sosa.

13       61.52. M.S., by and through guardian ad litem JENNIFER LOPEZ,  
14 had a cognizable interest under the Due Process Clause of the Fourteenth  
15 Amendment of the United States Constitution to be free from state actions  
16 that deprive them of life, liberty, or property in such a manner as to shock the  
17 conscience, including but not limited to unwarranted state interference in  
18 M.S.'s familial relationship with their father, Mr. Sosa.

19       62.53. DEFENDANT OFFICERS acted within the course and  
20 scope of their employment as officers for the Defendant CITY and FPD and  
21 acted under color of state law.

22       63.54. The aforementioned actions of DEFENDANT OFFICERS  
23 shock the conscience, in that they acted with deliberate indifference to the  
24 constitutional rights of Mr. Sosa and Plaintiffs, and with purpose to harm  
25 unrelated to any legitimate law enforcement objective.

26       64.55. As a direct and proximate result of these actions, Mr. Sosa  
27 experienced pain and suffering and eventually died. DEFENDANT  
28 OFFICERS thus violated the substantive due process rights of Plaintiffs to be

1 free from unwarranted interference with their familial relationship with Mr.  
2 Sosa.

3 65.56. As a direct and proximate cause of the acts of  
4 DEFENDANT OFFICERS, Plaintiffs have also been deprived of the life-long  
5 love, companionship, comfort, support, society, care, and sustenance of Mr.  
6 Sosa, and will continue to be so deprived for the remainder of their natural  
7 lives.

8 66.57. DEFENDANT OFFICERS are liable for Mr. Sosa's injuries  
9 either because they were integral participants in the excessive force and  
10 because they failed to intervene to prevent the excessive force.

11 67.58. Plaintiffs bring this claim individually and as successors-in-  
12 interest to Mr. Sosa and seek both survival and wrongful death damages for  
13 the violation of their rights. Plaintiffs also seek attorney's fees and costs  
14 under this claim.

15 68.59. The conduct of DEFENDANT OFFICERS was malicious,  
16 wanton, oppressive, and carried out with conscious disregard for the rights of  
17 both the Plaintiffs and Mr. Sosa. DEFENDANT OFFICERS intentionally  
18 deprived and violated their constitutional rights, or acted with reckless  
19 disregard for those rights. As such, this conduct entitles the Plaintiffs to an  
20 award of exemplary and punitive damages from DEFENDANT OFFICERS.

21 **FOURTH THIRD CLAIM FOR RELIEF**

22 **Municipal Liability: Unconstitutional Custom or Policy (42 U.S.C. § 1983)**

23 (Plaintiffs against the CITY)

24 69.60. Plaintiffs repeat and reallege each and every allegation in  
25 the foregoing paragraphs of this Complaint with the same force and effect as  
26 if fully set forth herein.

27 70.61. The actions of DEFENDANT OFFICERS, which deprived  
28 Mr. Sosa and Plaintiffs of their constitutional rights under the Fourth and

1 Fourteenth Amendments, were carried out in accordance with a widespread  
2 and longstanding practice or custom of Defendant CITY. This custom  
3 condones, ratifies, and acquiesces in the excessive use of deadly force by  
4 FPD officers. Due to this ingrained practice, DEFENDANT OFFICERS have  
5 not been disciplined, reprimanded, retrained, suspended, or faced any  
6 administrative or adverse employment consequences in connection with Mr.  
7 Sosa's death. This practice or custom by CITY serves as the moving force  
8 behind the deprivation of the Plaintiffs' rights and Mr. Sosa's death.

9       71.62. Defendants CITY, together with other CITY final  
10 policymakers and supervisors, maintained the following unconstitutional  
11 customs, practices, and policies:

- 12       a. The use of excessive force, including excessive deadly force by  
13           FPD officers when there is no need for deadly force, or where  
14           there is no imminent threat to officers.
- 15       b. The CITY's failure to provide adequate training regarding the use  
16           of force, and the use of deadly force.
- 17       c. The CITY's employing and retaining as police officers any  
18           individuals whom the CITY knew or reasonably should have  
19           known had dangerous propensities for abusing their authority and  
20           for using excessive deadly force.
- 21       d. The use of excessive force by FPD officers against individuals  
22           suffering from a mental health crisis, when there are reasonable  
23           alternatives.
- 24       e. The CITY's inadequately supervising, training, controlling,  
25           assigning, and disciplining Police Officers, contributing to  
26           situations like that encountered on November 4, 2023, where lack  
27           of proper direction and control led to the escalation of a situation

1 involving a mentally distressed individual and resulted in fatal  
2 consequences.

3 f. The CITY’s maintaining grossly inadequate procedures for  
4 reporting, supervising, investigating, reviewing, disciplining, and  
5 controlling misconduct by CITY police officers, as demonstrated  
6 by the incident on November 4, 2023, where conflicting orders  
7 and the use of lethal force against an individual suffering from a  
8 mental health crisis highlight systemic failures in handling such  
9 situations.

10 g. The CITY’s custom and practice of concluding that acts of  
11 excessive use of force are “within policy” including use of deadly  
12 force instances such as the one on November 4, 2023, where  
13 lethal force was used against an individual in a mental health  
14 crisis who did not pose an immediate threat of death or serious  
15 bodily injury to any person.

16 h. Even when an incident such as the one on November 4, 2023, is  
17 brought to light, where the use of force was excessive and fatal  
18 against a mentally distressed individual, the CITY has refused to  
19 discipline, terminate, or retrain the officers involved.

20 i. The CITY’s custom and practice of accommodating, or  
21 facilitating a “code of silence,” pursuant to which police officers  
22 do not report other officers’ errors, misconduct, or crimes, as  
23 potentially indicated by the lack of immediate corrective actions  
24 or reporting regarding the incident on November 4, 2023.

25 j. The CITY’s maintaining a policy of inaction and an attitude of  
26 indifference towards soaring numbers of instances of excessive  
27 force by police officers, as evidenced by the fatal incident on  
28 November 4, 2023, where a lack of discipline, retraining,

1 investigation, termination, and recommendation for criminal  
2 prosecution perpetuates a cycle of violence, especially against  
3 vulnerable populations.

4 k. The CITY's custom and practice of providing inadequate training  
5 regarding handling situations with mentally ill persons and failing  
6 to provide adequate training in compliance with Welfare and  
7 Institutions Code § 5150 and 5158, as exemplified by the incident  
8 on November 4, 2023, where the officers were ill-prepared to de-  
9 escalate a situation involving an individual suffering from a  
10 mental health crisis, leading to fatal consequences.

11 72.63. Defendants CITY, along with DEFENDANT OFFICERS,  
12 together with various other CITY officials, and final policy makers, had  
13 either actual or constructive knowledge of the unconstitutional policies,  
14 practices and customs alleged in the paragraphs above. The Defendants  
15 CITY, along with DEFENDANT OFFICERS, acted with deliberate  
16 indifference to the foreseeable effects and consequences of these customs and  
17 policies with respect to the constitutional rights of Mr. Sosa, Plaintiffs, and  
18 other individuals similarly situated.

19 73.64. The following are examples of constitutional violations  
20 committed by police officers working for Defendant CITY. These examples  
21 demonstrate the CITY's unconstitutional customs and practices of using  
22 excessive force against unarmed civilians, ratifying that use of deadly force,  
23 and/or finding the use of deadly force to be justified or "within policy," as  
24 exemplified in the incident on November 4, 2023, involving Mr. Sosa during  
25 a mental health crisis. Despite knowledge of Mr. Sosa's mental health  
26 condition and initial use of non-lethal force options, DEFENDANT  
27 OFFICERS escalated the situation by discharging their tasers and firearms,  
28 fatally wounding Mr. Sosa's, who at that time did not pose an immediate

1 threat of death or serious bodily injury to any person, including the involved  
2 officers. This incident reflects the alleged unconstitutional customs and  
3 practices within the Defendant CITY.

4 a. In *Estate of Casillas v. City of Fresno, et al.*, No. 1:16-cv-1042-  
5 AWI-SAB (E.D. Cal.), a man exited an apartment carrying a  
6 metal pipe and walked slowly toward an officer. Without  
7 warning, the officer shot him three times, killing him. In February  
8 2019, a jury awarded Casillas' heirs \$4,750,000. The CITY  
9 settled the case for \$4,400,000 in 2021. The officer was not  
10 disciplined or retrained for his use of deadly force, and the CITY  
11 found that the shooting was justified and did not violate any  
12 CITY policy.

13 b. In *Willis v. City of Fresno, et al.*, No. 1:09-cv-01766-BAM (E.D.  
14 Cal.), the family of a man who was shot by two FPD officers was  
15 awarded \$1,302,044.80 following a jury trial. The decedent was  
16 in the parking lot of his apartment complex at the time of the  
17 shooting and there was no warning that lethal force would be  
18 used. The officers were not disciplined or retrained for their use  
19 of deadly force, and the CITY found that the shooting was  
20 justified and did not violate any CITY policy.

21 c. In *Murrietta-Golding v. City of Fresno, et al.*, No. 1:18-CV-0314-  
22 AWI-SKO (E.D. Cal.), an FPD Officer shot an unarmed 16-year-  
23 old boy in the back of the head, killing him instantly. In 2021, the  
24 CITY settled the case for \$4,900,000. The officer was not  
25 disciplined or retrained for their use of deadly force, and the  
26 CITY found that the shooting was justified and did not violate  
27 any city policy.

1           d. In *Reyes ex rel. Reyes v. City of Fresno, et al.*, No. 1:13-cv-  
2           00418-DAD-SKO (E.D. Cal.), FPD officers shot and killed an  
3           unarmed 28-year-old man who was suffering a mental health  
4           disturbance. The man was shot four times, including three shots  
5           while he was on the ground. The CITY settled the lawsuit for  
6           \$2,200,000 in 2016. The Officers were not disciplined or  
7           retrained for their use of deadly force, and the CITY found that  
8           the shooting was justified and did not violate any CITY policy.  
9           e. In *Enriquez v. City of Fresno, et al.*, No. 1:10-cv-00581-AWI-  
10          BAM (E.D. Cal.), an FPD Officer killed an unarmed civilian,  
11          shooting him eight times. In 2012, the CITY settled the lawsuit  
12          for \$1,300,000. The Officer was not disciplined or retrained for  
13          his use of deadly force, and the CITY found that the shooting was  
14          justified and did not violate any CITY policy. Plaintiffs in that  
15          cased showed the federal jury a pattern of Fresno police shootings  
16          from 2005 to 2010 that they contended were unlawful and  
17          unjustified. The jury ruled in their favor and found the city liable.  
18          f. On February 15, 2018, the ACLU of California issued a report  
19          titled *Reducing Officer-Involved Shootings in Fresno, California*,  
20          criticizing the FPD's customs, training, and policies. See  
21          <https://www.aclunc.org/docs/ReducingOISFresno2017.11.29.pdf>.  
22          The report details community concerns and provides  
23          recommendations to reduce the number of officer-involved  
24          shootings and promote a positive police-community relationship  
25          in the CITY. The report finds that between 2001 and 2016, there  
26          were 146 officer-involved shootings by the Fresno Police  
27          Department. And the report also finds that at least 55 Fresno  
28          police officers were involved in more than one shooting incident,

1                   indicating that the CITY is failing to retrain officers or change  
2                   their assignment to prevent more casualties.

3       74.65.       The aforementioned cases establish a pattern of excessive  
4       use of force by CITY police officers, and the unconstitutional custom, and  
5       practice of the CITY in ratifying the excessive use of force by FPD officers,  
6       as evidenced by the number of prior cases involving the use of deadly force  
7       by officers working for the FPD.

8       75.66.       The CITY's longstanding practice or custom caused the  
9       deprivation of Mr. Sosa and Plaintiffs' rights by DEFENDANT OFFICERS;  
10      that is, the CITY's official policy condoning excessive force against mentally  
11      ill people is so closely related to the deprivation of Mr. Sosa and Plaintiffs'  
12      rights in this case as to be the moving force that caused Mr. Sosa's death.

13      76.67.       The CITY had either actual or constructive knowledge of  
14      the unconstitutional policies, practices and customs alleged in the paragraphs  
15      above.

16      77.68.       The CITY also acted with deliberate indifference to the  
17      foreseeable effects and consequences of these policies with respect to the  
18      constitutional rights of Mr. Sosa, Plaintiffs, and other individuals similarly  
19      situated.

20      78.69.       By reason of the aforementioned acts and omissions, the  
21      Plaintiffs have suffered the loss of the love, companionship, affection,  
22      comfort, care, society, training, guidance, and moral support of Mr. Sosa. The  
23      aforementioned acts and omissions also caused Mr. Sosa's pain and suffering,  
24      loss of enjoyment of life, and death.

25      79.70.       Accordingly, Defendant CITY is liable to Plaintiffs for  
26      compensatory damages under 42 U.S.C. § 1983.

27      80.71.       Plaintiffs bring their claim individually and as successors in  
28      interest to Mr. Sosa and seek wrongful death damages under this claim.

1 Plaintiffs also seek attorney's fees under this claim pursuant to 42 U.S.C. §  
 2 1988(b).

3 **FIFTH FOURTH CLAIM FOR RELIEF**

4 **Municipal Liability: Failure to Train (42 U.S.C. § 1983)**

5 (Plaintiffs against CITY)

6 81.72. Plaintiffs repeat and reallege each and every allegation in  
 7 the foregoing paragraphs of this Complaint with the same force and effect as  
 8 if fully set forth herein.

9 82.73. At all times herein mentioned, DEFENDANT OFFICERS,  
 10 acted under color of law and the acts and omissions of the DEFENDANT  
 11 OFFICERS deprived Mr. Sosa and Plaintiffs of their Constitutional rights  
 12 under the United States Constitution. The training policies of Defendant  
 13 CITY were not adequate to properly train FPD officers to handle the usual  
 14 and recurring situations in their interactions with residents, including  
 15 responding to calls involving mentally ill people, responding to calls and  
 16 interacting with people who display symptoms of mental illness. The training  
 17 policies of Defendant CITY were not adequate to properly train FPD officers  
 18 with regard to the use of deadly force and, the permissible use of deadly  
 19 weapons, , and protecting the rights of persons to medical care during in the  
~~course of detaining individuals.~~

21 83.74. The unjustified and excessive use of deadly force against  
 22 Mr. Sosa by DEFENDANT OFFICERS, was a result of the negligent training  
 23 by Defendant CITY who failed to train FPD officers, such as DEFENDANT  
 24 OFFICERS, as to proper police tactics, proper use of force, proper use of  
 25 deadly force, and proper police tactics in the use of force with respect to  
 26 mentally ill individuals. Defendant CITY was responsible for the training of  
 27 FPD officers to ensure that the actions, procedures, and practices of  
 28 DEFENDANT OFFICERS, complied with Peace Officer Standards and

1 Training (“POST”) training standards regarding proper police tactics, proper  
2 use of force, and proper use of deadly force.

3 84.75. Defendant CITY negligently failed to train CITY police  
4 officers, such as DEFENDANT OFFICERS, to comply with POST training  
5 standards regarding proper police tactics, proper use of force, proper use of  
6 deadly force, and proper police tactics when dealing with individuals  
7 suffering from a mental health crisis. POST was established by the California  
8 Legislature in 1959 to set minimum training standards for California police  
9 officers. The training policies of Defendant CITY were not adequate to train  
10 its police officers to handle the usual and recurring situations with residents  
11 and pretrial detainees that DEFENDANT OFFICERS have contact with.

12 85.76. The training policies of Defendant CITY were deficient in  
13 the following:

- 14 a. Defendant CITY failed to adequately train Fresno Police  
15 Department officers, such as DEFENDANT OFFICERS, in de-  
16 escalating interactions with residents or individuals experiencing  
17 a mental health crisis. Instead of de-escalation, DEFENDANT  
18 OFFICERS escalated their interactions with Mr. Sosa, who was  
19 experiencing a mental health crisis.
- 20 b. Defendant CITY failed to properly train Fresno Police  
21 Department officers, like DEFENDANT OFFICERS, to manage  
22 their fear to prevent it from becoming unreasonable and not  
23 objectively justifiable. This lack of training led to the use of  
24 deadly force by DEFENDANT OFFICERS, causing the death of  
25 residents or individuals in a mental health crisis, such as Mr.  
26 Sosa.
- 27 c. Defendant CITY failed to properly train CITY police officers,  
28 such as DEFENDANT OFFICERS, in proper police tactics, such

1 as situational awareness, to prevent the use of negligent tactics,  
2 which is what DEFENDANT OFFICERS did in this case.

3 Because of this lack of proper training by Defendant CITY,  
4 DEFENDANT OFFICERS did not use proper police tactics in  
5 handling their contact and interaction with Mr. Sosa. and  
6 DEFENDANT OFFICERS used defective police tactics,  
7 including the lack of situational awareness. These training  
8 failures by Defendant CITY, and defective tactics by  
9 DEFENDANT OFFICERS, resulted in the death of Mr. Sosa.

10 d. Defendant CITY failed to properly train police officers, such as  
11 DEFENDANT OFFICERS, on the importance of effective  
12 communication between officers prior to using any type of force.  
13 e. Because of the lack of proper training by CITY, DEFENDANT  
14 OFFICERS did not use effective communication prior to and  
15 during the use of force against Mr. Sosa. This ineffective  
16 communication by DEFENDANT OFFICERS, prior to and during  
17 the incident, resulted in the death of Mr. Sosa, causing  
18 constitutional injuries to Mr. Sosa and PLAINTIFFS.

19 86.77. The failure of Defendant CITY to provide proper training to  
20 its police officers resulted in the deprivation of Plaintiffs' rights by  
21 DEFENDANT OFFICERS. Defendant CITY's failure to train is so closely  
22 related to the deprivation of the Plaintiffs' rights as to be the moving force  
23 that caused the ultimate injuries to Plaintiffs.

24 87.78. The training policies of the City were not adequate to train  
25 its police officers to handle the usual and recurring situations they must deal  
26 with, including situations involving persons suffering from a mental health  
27 crisis, such as Mr. Sosa. Defendant CITY was deliberately indifferent to the  
28 obvious consequences of its failure to properly train its police officers.

1       88.79. The failure of the CITY to provide adequate training to its  
2 police officers caused the deprivation of Plaintiffs' rights by DEFENDANT  
3 OFFICERS; the CITY's failure to train is so closely related to the deprivation  
4 of Mr. Sosa and Plaintiffs' rights as to be the moving force that caused the  
5 ultimate constitutional injuries to Plaintiffs.

6       89-80. By reason of the aforementioned acts and omissions of  
7 Defendant CITY, Plaintiffs have suffered loss of the love, companionship,  
8 affection, comfort, care, society, training, guidance, and moral support of Mr.  
9 Sosa. The aforementioned acts and omissions also caused Mr. Sosa's pain and  
10 suffering, loss of enjoyment of life, and death.

11       90.81. Defendant CITY is liable to the Plaintiffs for compensatory  
12 damages under 42 U.S.C. § 1983. Plaintiffs bring these claims as Mr. Sosa's  
13 successors-in-interest as defined in Section 377.11 of the California Code of  
14 Civil Procedure and seek survival damages for the violation of Mr. Sosa's  
15 rights. Plaintiffs also seek reasonable attorneys' fees pursuant to 28 U.S.C. §  
16 1988, costs, and interest.

## ~~SIXTH~~ FIFTH CLAIM FOR RELIEF

## **Municipal Liability: Ratification (42 U.S.C. § 1983)**

(Plaintiffs against CITY)

20       91.82. Plaintiffs repeat and reallege each and every allegation in  
21 the foregoing paragraphs of this Complaint with the same force and effect as  
22 if fully set forth herein.

23       92.83. At all relevant times DEFENDANT OFFICERS acted under  
24 the color of state law and within the course and scope of their employment  
25 with Defendant CITY.

26       93.84. The acts of DEFENDANT OFFICERS deprived Mr. Sosa  
27 and Plaintiffs of their particular rights under the United States Constitution,  
28 including when they intentionally tased and shot Mr. Sosa without

1 justification, causing his death, depriving Plaintiffs of their familial  
 2 relationship with Mr. Sosa.

3 94.85. Upon information and belief, a final policymaker, acting  
 4 under color of law, has a history of ratifying the unconstitutional and  
 5 unreasonable uses of force, including deadly force.

6 95.86. Upon information and belief, a final policymaker for the  
 7 Defendant CITY, acting under color of law, who had final policymaking  
 8 authority concerning the acts of DEFENDANT OFFICERS and the bases for  
 9 them, ratified the acts and omissions of DEFENDANT OFFICERS and the  
 10 bases for them. Upon information and belief, the final policymaker knew of  
 11 and specifically approved of Defendants' acts, specifically approving the FPD  
 12 Officers' excessive and unreasonable shooting of Mr. Sosa when he was not  
 13 an immediate threat of death or serious bodily injury.

14 96.87. The official policies with respect to the incident are that  
 15 FPD Officers are not to use deadly force against an individual unless the  
 16 individual poses an immediate risk of death or serious bodily injury to the  
 17 Officers or others. ~~THE~~ DEFENDANT OFFICERS' actions deviated from  
 18 these official policies because Mr. Sosa did not pose an immediate threat of  
 19 death or serious bodily injury to the involved Officers or anyone else.

20 97.88. Upon information and belief, a final policymaker(s) has  
 21 determined (or will determine) that the acts of DEFENDANT OFFICERS  
 22 were "within policy."

23 98.89. By reason of the aforementioned acts and omissions,  
 24 Defendant CITY is liable to Plaintiffs for compensatory damages under 42  
 25 U.S.C. §1983.

26 99.90. Plaintiffs bring this claim individually and as successors-in-  
 27 interest to Mr. Sosa and seeks both survival and wrongful death damages.  
 28 Plaintiffs also seek reasonable attorneys' fees and costs under this claim.

1                   **SEVENTH SIXTH CLAIM FOR RELIEF**

2                   **Americans with Disabilities Act (42 U.S.C. § 12132)**

3                   (Plaintiffs against CITY)

4                  100.91. Plaintiffs repeat and reallege each and every allegation in  
5 the foregoing paragraphs of this Complaint with the same force and effect as  
6 if fully set forth herein.

7                  101.92. Mr. Sosa was a "qualified individual," with a mental  
8 impairment, specifically a chronic depressive disorder that had persisted  
9 throughout his entire adult life, that substantially limited his ability to care  
10 for himself and control his mental health condition as defined under the  
11 Americans with Disabilities Act ("ADA"), 42 U.S.C. §12131 (2).

12                 102.93. The City of Fresno is a covered entity for purposes of  
13 enforcement of the ADA, 42 U.S.C. §12131 (2), as explained by regulations  
14 under these laws.

15                 103.94. The CITY is mandated under the ADA not to discriminate  
16 against any qualified individual on the basis of disability in any services or  
17 facilities. 42 U.S.C. §12182 (a).

18                 104.95. Under the ADA, the CITY is mandated to develop effective  
19 procedures for interactions with individuals with mental disabilities and to  
20 ensure the protection of their personal and civil rights.

21                 105.96. DEFENDANT OFFICERS knew Mr. Sosa was  
22 experiencing a severe mental health crisis and that he was actively suicidal.

23                 106.97. DEFENDANT OFFICERS had numerous options to  
24 reasonably accommodate Mr. Sosa's condition, including but not limited to  
25 the following:

26                   a. Deploying a Crisis Intervention Team (CIT) with officers  
27                   specially trained in mental health crisis intervention;

- 1        b. Requesting the assistance of a mental health professional to
- 2              accompany officers or provide immediate consultation;
- 3        c. Employing de-escalation techniques such as calm
- 4              communication, active listening, and non-threatening body
- 5              language;
- 6        d. Implementing time and distance strategies to create physical
- 7              space and allow more time for the situation to de-escalate;
- 8        e. Following clear, empathetic communication protocols designed
- 9              for interacting with individuals in crisis;
- 10      f. When safe and possible, involving family members or friends
- 11              who could help calm Mr. Sosa;
- 12      g. Deploying a specialized mobile crisis team that includes both law
- 13              enforcement and mental health professionals;
- 14      h. Utilizing trained negotiators to communicate with Mr. Sosa and
- 15              work towards a peaceful resolution;
- 16      i. Creating a temporary safe environment to continue dialogue and
- 17              assessment without immediate threat;
- 18      j. Refraining from brandishing firearms, which can escalate
- 19              tensions and exacerbate the mental health crisis of an individual
- 20              contemplating suicide by cop;
- 21      k. Implementing a tactical retreat by creating a physical barrier
- 22              between themselves and Mr. Sosa, such as leaving the apartment
- 23              and closing the door to establish a safer environment for verbal
- 24              de-escalation.

25        107.98. The CITY and its agents violated the ADA by: failing to  
26        properly train its police officers to respond and interact peacefully with  
27        suicidal individuals, such as Mr. Sosa; failing to follow procedures for de-  
28        escalation and non-lethal force in interactions with Mr. Sosa, who was

1 experiencing a mental health crisis; and failing to utilize any of the above  
2 reasonable accommodations.

3 108.99. As a result of the acts and omissions of the City and its  
4 agents, DEFENDANT OFFICERS, Mr. Sosa suffered damages, including loss  
5 of life and pain and suffering.

6 109.100. Plaintiffs bring this claim individually and as successors-in-  
7 interest to Mr. Sosa and seeks both survival and wrongful death damages.  
8 Plaintiffs also seek reasonable attorneys' fees and costs under this claim.

9 **EIGHTH SEVENTH CLAIM FOR RELIEF**

10 **Battery**

11 (Plaintiffs against all Defendants)

12 110.101. Plaintiffs repeat and reallege each and every allegation in  
13 the foregoing paragraphs of this Complaint with the same force and effect as  
14 if fully set forth herein.

15 111.102. DEFENDANT OFFICERS acted within the course and  
16 scope of their employment as officers for the Defendant CITY and FPD and  
17 acted under color of state law.

18 112.103. ~~DOE 3~~AGUILAR intentionally tased Mr. Sosa. ~~DOE 3~~He  
19 had no legal justification for using force against Mr. Sosa, making the use of  
20 force unreasonable under the circumstances.

21 113.104. ~~D~~Defendants AYERS, ABRAHAM, and  
22 ~~CROCKETT~~efendant Officers intentionally shot Mr. Sosa, resulting in his  
23 fatal injuries. The officers had no legal justification for using deadly force  
24 against Mr. Sosa, making the use of force unreasonable under the  
25 circumstances.

26 114.105. At all relevant times, Mr. Sosa did not pose an immediate  
27 threat of death or serious bodily injury to anyone, including DEFENDANTS  
28

1 OFFICERS. No warning was given that deadly force would be used prior to  
2 its use, and less-than-lethal alternatives were available.

3 115.106. Defendant CITY is vicariously liable for the wrongful acts  
4 of DEFENDANT OFFICERS pursuant to section 815.2 of the California  
5 Government Code, which provides that a public entity is liable for injuries  
6 proximately caused by an act or omission of an employee of the public entity.

7 116.107. The conduct of DEFENDANT OFFICERS was malicious,  
8 wanton, oppressive, and accomplished with a conscious disregard for the  
9 rights of Mr. Sosa, entitling Plaintiffs to an award of exemplary and punitive  
10 damages.

11 117.108. Plaintiffs seek survival, wrongful death, and punitive  
12 damages under this claim; survival damages include pre-death pain and  
13 suffering damages.

14 **NINTH-EIGHTH CLAIM FOR RELIEF**

15 **Negligence**

16 (Plaintiffs against all Defendants)

17 118.109. Plaintiffs repeat and reallege each and every allegation in  
18 the foregoing paragraphs of this Complaint with the same force and effect as  
19 if fully set forth herein.

20 119.110. DEFENDANT OFFICERS acted within the course and  
21 scope of their employment as officers for the Defendant CITY and FPD and  
22 acted under color of state law.

23 120.111. Police officers, including DEFENDANT OFFICERS, have  
24 a duty to use reasonable care to prevent harm and injury to others. This duty  
25 includes using appropriate tactics, giving appropriate commands, using de-  
26 escalation techniques, and only using force as a last resort, especially when  
27 dealing with individuals in a mental health crisis. **DEFENDANT OFFICERS**

1 ~~also have a responsibility to provide timely medical care to individuals they  
2 have harmed.~~

3 121.~~112.~~ DEFENDANT OFFICERS negligently caused physical  
4 injury to Mr. Sosa when they, without any tactical plan, instructed Mr. Sosa  
5 to go outside towards two officers, and subsequently discharged their tasers  
6 and firearms at Mr. Sosa, killing him. Their use of force was excessive,  
7 unreasonable, and negligent, including their pre-shooting conduct ~~and post-~~  
8 ~~shooting neglect to provide medical care.~~

9 113. DEFENDANT OFFICERS breached their duty of care. Their  
10 actions were negligent and reckless, including but not limited to: (a)  
11 instructing Mr. Sosa to go outside the home towards other officers without a  
12 tactical plan; (b) contributing to Mr. Sosa's disorientation by shouting  
13 conflicting command; (c) tasing Mr. Sosa without justification; (d) and  
14 shooting Mr. Sosa without justification; ~~and (e) failing to provide or summon~~  
~~timely medical care after the shooting.~~

16 122.~~ABRAHAM's gunfire was particularly negligent because he fired  
17 in the direction of his fellow officers, despite being trained to consider his  
18 backdrop before discharging his firearm.~~

19 114.

20 123.~~115.~~ As a direct and proximate result of the conduct of  
21 DEFENDANT OFFICERS, Mr. Sosa suffered severe physical and mental  
22 pain, loss of life, and loss of earning capacity.

23 124.~~116.~~ At all relevant times, Mr. Sosa was not an immediate threat  
24 of death or serious bodily injury to anyone, and was not given any warning  
25 that deadly force would be used.

26 125.~~117.~~ Defendant CITY is vicariously liable for the wrongful acts  
27 of DEFENDANT OFFICERS pursuant to section 815.2(a) of the California  
28 Government Code.

126.118. Plaintiffs bring this claim as successors-in-interest to Mr. Sosa and seek wrongful death ~~and punitive damages~~ under this claim; survival damages include pre-death pain and suffering damages.

## ~~TENTH~~ NINTH CLAIM FOR RELIEF

# **Negligent Infliction of Emotional Distress**

**(Plaintiffs against all Defendants)**

127.119. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs of this Complaint with the same force and effect as if fully set forth herein.

128.120. DEFENDANT OFFICERS negligently caused physical injury and death to Mr. Sosa when they discharged their tasers and firearms at Mr. Sosa, striking him and eventually killing him. The use of deadly force by DEFENDANT OFFICERS was excessive, unreasonable and DEFENDANT OFFICERS were negligent in discharging their firearms at Mr. Sosa, including pre-shooting negligent conduct, actions, inactions, and tactics.

129.121. MARIA SOSA was present at the scene, which is her residence, when DEFENDANT OFFICERS fatally discharged their tasers and firearms at Mr. Sosa and MARIA SOSA was aware that Mr. Sosa was being injured.

130.122. As a result of being present at the scene and perceiving her husband, Mr. Sosa, being fatally shot by DEFENDANT OFFICERS, MARIA SOSA suffered serious emotional distress, including but not limited to suffering anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, and shame.

131.123. On information and belief, an ordinary reasonable person would be unable to cope with hearing her husband fatally shot multiple times by the police, especially at their own residence.

1       132.124. CITY is vicariously liable for the wrong acts of  
2 DEFENDANT OFFICERS pursuant to section 815.2(a) of the California  
3 Government Code, which provides that a public entity is liable for the  
4 injuries caused by its employees within the scope of their employment if the  
5 employee's act would subject him or her to liability.

6       133-125. Plaintiff MARIA SOSA brings this claim individually and  
7 seeks compensatory damages under this claim as an individual.

## **ELEVENTH TENTH CLAIM FOR RELIEF**

## **Violation of Cal. Civil Code § 52.1**

(Plaintiffs against all Defendants)

11       134.126. Plaintiffs repeat and reallege each and every allegation in  
12 the foregoing paragraphs of this Complaint with the same force and effect as  
13 if fully set forth herein.

14       135.127. DEFENDANT OFFICERS acted within the course and  
15 scope of their employment as officers for the Defendant CITY and FPD and  
16 acted under color of state law.

17       136.128. The Bane Act, the California Constitution, and California  
18 common law prohibit the use of excessive force by law enforcement.  
19 California Civil Code, Section 52.1(b) authorizes a private right of action and  
20 permits survival actions for such claims.

137.129. On information and belief, DEFENDANT OFFICERS,  
while working for the CITY and acting within the course and scope of their  
duties, intentionally committed and attempted to commit acts of violence  
against Mr. Sosa, including by using excessive force against him without  
justification or excuse.

26       138.130. When ~~Defendants~~DEFENDANT OFFICERS unnecessarily  
27 shot Mr. Sosa, they interfered with his civil rights to be free from  
28 unreasonable searches and seizures, due process, equal protection of the laws,

1 ~~medical care~~, and life, liberty, and property. They intentionally used deadly  
2 force, demonstrating a reckless disregard for Mr. Sosa's right to be free from  
3 excessive force.

4 139.131. On information and belief, DEFENDANT OFFICERS  
5 intentionally and spitefully committed the above acts to discourage Mr. Sosa  
6 from exercising his civil rights.

7 140.132. On information and belief, Mr. Sosa reasonably believed  
8 that the violent acts committed by Defendants were intended to discourage  
9 him from exercising his civil rights.

10 141.133. Defendants successfully interfered with the civil rights of  
11 Mr. Sosa and Plaintiffs.

12 142.134. Mr. Sosa was caused to suffer severe pain and suffering,  
13 loss of enjoyment of life, and loss of life. The conduct of Defendants was a  
14 substantial factor in causing the harm, losses, injuries, and damages of Mr.  
15 Sosa.

16 143.135. Defendant CITY is vicariously liable for the wrongful acts  
17 of DEFENDANT OFFICERS under California law and the doctrine of  
18 *respondeat superior* and section 815.2(a) of the California Government Code.

19 144.136. The conduct of the individual DEFENDANT OFFICERS  
20 was malicious, wanton, oppressive, and accomplished with a conscious  
21 disregard for the rights of Plaintiffs and Mr. Sosa. Plaintiffs and Mr. Sosa are  
22 thus entitled to an award of exemplary and punitive damages.

23 145.137. Plaintiffs ~~also~~ seek wrongful death and survival damages,  
24 costs, and attorneys' fees under this claim.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs MARIA SOSA, L.S, and M.S request entry of judgment in their favor against Defendants CITY OF FRESNO; and DEFENDANT OFFICERS as follows:

1. For compensatory damages according to proof at trial, including survival damages, not limited to pre-death pain and suffering and loss of life under federal and state law; and wrongful death damages under federal and state law;
2. For funeral and burial expenses, and loss of financial support;
3. For loss of consortium;
4. For punitive and exemplary damages against DEFENDANT OFFICERS in an amount to be proven at trial;
5. For statutory damages;
6. For reasonable attorneys' fees including litigation expenses;
7. For costs of suit and interest incurred; and
8. For such other and further relief as the Court may deem just, proper, and appropriate.

**DATED: June 23, 2025**

## LAW OFFICES

/s/      Dale K. Galipo  
**LAW OFFICES OF DALE K. GALIPO**  
Dale K. Galipo  
Cooper Alison-Mayne

**STEVEN A. LERMAN & ASSOCIATES,  
INC.**

Steven A. Lerman  
Nicholas M. Lerman

*Attorneys for Plaintiffs*

1                   **DEMAND FOR JURY TRIAL**  
2

3

4

5                   Plaintiffs hereby submit this demand that this action be tried in front of a jury.

6

7

8                   DATED: June 23, 2025June 23, 2025June 16, 2025 /s/ Dale K. Galipo

9

10                  LAW OFFICES OF DALE K. GALIPO

11                  Dale K. Galipo

12                  Cooper Alison-Mayne

13                  STEVEN A. LERMAN & ASSOCIATES, INC.

14                  Steven A. Lerman

15                  Nicholas M. Lerman

16                  *Attorneys for Plaintiffs*

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